

APPROVED: Meeting No. 41-87

ATTEST: *Helen M. Heneghan*

MAYOR AND COUNCIL  
ROCKVILLE, MARYLAND  
MEETING NO. 30-87

June 8, 1987

The Mayor and Council of Rockville, Maryland, convened in general session in the Council Chamber, Rockville City Hall, Maryland at Vinson Street, Rockville, Maryland, on Monday, June 8, 1987 at 8:00 p.m.

PRESENT

Mayor Steven Van Grack

Councilman Steve Abrams

Councilman James Coyle

Councilman Douglas Duncan

Councilman Peter Hartogensis

The Mayor in the Chair.

In attendance: City Manager Richard Robinson, City Clerk Carol A. Kachadoorian, and City Attorney Paul Glasgow.

Re: Invocation

The invocation was delivered by James Duffy of the Rockville American Legion, Post #86.

Re: City Manager's Report

City Manager Robinson reported the following:

1. Patricia Horton has been hired on contract as staff to the Human Rights Office. She will be under contract until a permanent Human Rights Officer can be found.

Ms. Horton, formerly director of the Fair Housing Council of Greater Washington, has extensive experience in the human rights field including service as Executive Director of the Human Rights Commission in Fairfax County and Alexandria, Virginia.

Under the terms of her contract, which extends through July 31, 1987, Ms. Horton will conduct intake interviews and seek informal resolution of human rights complaints, and she will conduct a review of all outstanding human rights cases to determine their appropriate disposition.

2. The Standard Traffic Methodology Report has been delivered to the Planning Commission from the Planning staff. Staff is recommending that the Mayor and Council consider legislation to adopt the methodology. The process should include a public hearing.

3. During the council meeting of Tuesday, May 26, 1987, a request was made from the audience to clean up and repair in and around the Pump House. I am please to report tonight that the repairs have been completed. Specifically, the permanent patch work has been set in place where lines were repaired and the areas around the play area have been leveled and seeded.

Re: Mayor's Report

Mayor Van Grack reported the following:

1. Staff has responded with a good report following the balcony collapse at the construction site at 1380 Piccard Drive. A special thanks go to Robert Groff, Director of Public Works, for his efforts.

2. The Mayor expressed appreciation to the State Highway Administration for its cooperation and good response to the City's concerns on the I-270 noise barriers.

3. The Mayor expressed his thanks to the Montgomery County Historical Society for its efforts in planning the Civil War reenactment held last Sunday. The event took place at the Beall-Dawson House and was an enjoyable occasion.

Re: Council's Report

1. In reference to the balcony collapse, Councilman Coyle noted that County's "Critical Structures" program that applies to buildings of six or more stories. In

such cases, an inspector is on the site at all times. He asked if this program would be valid for the City to consider as development takes place. In response, City Manager Robinson stated that staff will explore the concept and report back to the Mayor and Council.

2. Councilman Hartogensis advised the Mayor and Council that he went on a tour of homeless shelters in Montgomery County last week. The County Executive was also on the tour. Councilman Hartogensis stated that he was pleased with how well-maintained the shelters are and is proud that Rockville is in the fore front of such programs.

3. Councilman Duncan reported on the Art in Public Places sculpture exhibit at the Civic Center Mansion. He noted that a reception was held earlier this evening and encouraged all those who can to see the exhibit.

Re: Proclamation  
Amateur Radio Week  
June 22-28, 1987

Proclamation No. 14-87

There being no objection from the Council, Mayor Van Grack proceeded to issue Proclamation No. 14-87, the full text of which can be found in Proclamation File No. 2, proclaiming the week of June 22nd through 28th, 1987, as Amateur Radio Week. Mayor Van Grack read the proclamation in which it was urged that all citizens support the effort of the amateur radio operations of our City. Mr. Jim McDunough of the Rock Creek Amateur Radio Association was present to accept the proclamation.

Re: Proclamation  
National Flag Day  
June 14, 1987

Proclamation No. 15-87

There being no objection from the Council, Mayor Van Grack proceeded to issued Proclamation No. 15-87, the full text of which can be found in Proclamation File No. 2, proclaiming June 14, 1987, as National Flag Day. Mayor Van Grack read the

proclamation in which it was urged that the citizens of Rockville pause at 7:00 p.m. EDT for the Eighth Annual Pause For The Pledge, and recite with all American the Pledge of Allegiance to our Flag and Nation. Mr. James Duffy of the Rockville American Legion, Post #86, was present to accept the proclamation.

Re: Presentation  
Rockville Scholarship  
Recipients

The Mayor and Council presented certificates to recipients of this year's Rockville Scholarship Foundation Scholarships. Those present to receive the certificates are: Brett Richey, David Reiter and Mark Goodin. The remaining winners are: Susan Elizabeth Olsen, Jane Mjuyen, Robyn Sue Seemann, Susan Mary Buehler, Melisa Susan Powell, David Charles Kaelber, Dawn Marie Raines, Brennan Paul Cain, and Alkesh D. Patel.

Re: Citizens Forum

Mayor Van Grack opened the meeting to all those citizens who wished to address the Mayor and Council.

1. Mr. Baret, of Caldwell Banker Realty, invited members of the Mayor and Council to participate in the 1987 "Love Walk" for Muscular Distrophy on June 14, 1987, at 9:00 a.m., along the C & O Canal to the Great Falls Historical National Park. The cost to enter the walk is \$5.00. Those who do not wish to walk can sponsor walkers. Mr. Barrett encouraged those who are interested to call Caldwell Banker at 983-9300 or the Muscular Distrophy society.

2. Christine Edmuns, 105 Frederick Avenue, addressed the Mayor and Council regarding the Red Barn. She asked the City to deal better with the problems occurring around the area of the Red Barn and wondered why it was taking so long to tear the building down. She shared with the Mayor and Council pictures of the damage done by a bullet that entered her home from the Red Barn.

Mayor Van Grack agreed that she has good reason to be upset with the situation. He relayed the City's efforts in redeveloping the Red Barn and the difficulties that have been encountered.

Councilman Abrams asked for a status report on the two remaining families at the building. In response, City Manager Robinson stated that a final eviction notice has been given to the residents and the court date for eviction is for the end of this week. Unfortunately, we have not found a place for the residents to move where they are willing to go. Director of Community Development, Douglas Horne, noted that the City will go out to bid for the demolition of the building immediately upon its being empty.

3. Arlene Simons addressed the Mayor and Council regarding the New Horizons Task Force reports (Item 6 on the agenda). She stated that members of the task force are concerned that they were not advised that the item had been placed on the evening's agenda and asked if the Mayor and Council needed any information for its discussion this evening.

Councilman Hartogensis stated that he was going to ask that the item be discussed in Executive Session, as the Mayor and Council are not ready to hold a public discussion on the issue. Councilman Coyle concurred with Councilman Hartogensis's concerns for the need to discuss the matter in executive session. The Mayor and Council can then decide how to deal with the next steps. Councilman Abrams stated that there is nothing that the Mayor and Council will discuss that was not discussed at the breakfast meeting held with the task force.

4. Frederick Schneider, 125 S. Washington Street, spoke with the Mayor and Council regarding Item 5 (b), SWM Waiver #20-87, expressing his opposition to granting the waiver because his property is inundated with water each time it rains. He requested that no more SWM Waivers be granted until the Rockville Heights SWM facility is built. In response to a question from Councilman Abrams

regarding the status of his discussions with the City, Mr. Schneider stated that he is no longer negotiating regarding the facility.

Director of Public Works, Robert Goodin, explained the history of the SWM facility, stating that the final plans call for the flow to go down Leland Street. Thus, the City will not be on Mr. Schneider's Property. The project is expected to go out for bid shortly, with completion by the end of the year. Mr. Goodin further affirmed that the routing down Leland Street would resolve Mr. Schneider's concerns. In addition, Mr. Goodin stated that granting the SWM waiver on this evening's agenda will not increase the imperviousness of the subject property at 85 S. Washington Street. Council Abrams asked why the waiver was needed, to which Mr. Goodin responded that the property was developed prior to the Mayor and Council's adoption of the SWM ordinance. Thus, with the redevelopment of the property, the waiver is necessary in order for the City to collect the prescribed fees.

5. Carole Cohen, 100 Aberdeen Road, addressed the Mayor and Council regarding the Red Barn. She asked if the City can pay for the rent for the two remaining families in the building. Mayor Van Grack noted that this is not the issue at hand and that the City is working very hard to resolve the issue.

6. Mansfield Kaseman, 704 Carter Road, commended Ms. Edmunds for her comments to the Mayor and Council regarding the situation of the Red Barn. In addition, he commended the Mayor and Council and staff for the way the proposed budget was prepared, stating that this new approach will have an impact on the quality of life in the City. He stated that it is a good budget document and commended staff's willingness to provide information to the public.

7. John Tyner, Chairman, Cultural Arts Commission, spoke with the Mayor and Council regarding the "Sculpture in the Garden" exhibit. He thanked the Mayor and Council for its support and stated that the artists were impressed with the process followed and the overall program. They were impressed that the Mayor and Council

came to the reception and walked through the exhibit. He stated that this shows the commitment of the Mayor and Council to get citizens involved in the program.

8. Mike Gewirtz, 1520 Columbia Avenue, addressed the Mayor and Council regarding the parking agreement with Eisinger Kilbane. He stated his concern over the loss of 120 low-cost parking spaces for Metrorail commuters. He suggested that the City find a way to keep low-cost parking spaces.

Councilman Hartogensis advised Mr. Gewirtz that Eisinger Kilbane is paying to operate the Town Center garage. When the City operates a free parking lot across the street from the garage, we are providing unfair competition to Mr. Eisinger. The parking agreement is an attempt to equalize the situation. Furthermore, Governor Schaefer said the City should get an income from the property. Thus, the agreement is a good one.

Councilman Duncan asked about the County's plan to provide a parking lot for Metrorail commuters. City Manager Robinson stated that the County is planning to provide 130 spaces at Park Road and Hungerford Drive, to be operated by WMATA.

Re: Appointments

With the concurrence of Council, Mayor Van Grack made the following Appointments:

Animal Control Board - Ann Holt, re-appoint 3-year term  
4 Orchard Way North

Ruth Hanessian, re-appoint 3-year term  
301 Highland Avenue

Retirement and Disability Board - Charles Moore, appoint  
Parks Department, Union Representative

Re: Consent Agenda

At the request of Councilman Hartogensis, Items 5 (b) and (f) were removed from the consent agenda.

Re: Adoption of Resolution to  
Approve Temporary Use  
Permit (for Carnival)

Resolution No. 14-87

On motion of Councilman Duncan, duly seconded and unanimously passed, Resolution No. 14-87, the full text of which can be found in Resolution Book No. 8 of the Mayor and Council, to approve temporary use permit for carnival, was adopted by the Mayor and Council.

Re: Approval of Increase in  
Fiscal Year 1987 Annual  
Maintenance Contract Bid  
15-87

This contract was awarded by the Mayor and Council on September 8, 1986. It basically establishes unit prices for the routine repair of street, sidewalks, drive aprons and other miscellaneous items. The contract is established in a manner which allows the expenditure of the entire maintenance account appropriation in order to accomplish as much repair work as possible with the funds available.

This contract also includes repair work to streets necessitated by the sewer and water systems maintenance. Under this category there is a budgeted amount set aside to be used if and as needed. The expenditure varies substantially from year to year, dependent primarily on the number of water main breaks and the severity of damage resulting therefrom. In addition, under the current contract, the repairs needed in connection with our water main cleaning and lining program was accomplished. This was included because our experience indicates that it is less expensive than including this type of work with the lining program contract.

Other work under this contract includes the City's annual traffic "Spot Improvement Program" and other minor capital projects. Some smaller projects which arise unexpectedly during the course of the year are also added to this



contract as an economical and expeditious means of accomplishment. It works well.

This year the required street repair in connection with water breaks, coupled with the above mentioned Water Main Rehabilitation program and unanticipated work performed at the request of the Recreation and Parks Department will cause the contract amount to increase more than \$20,000 and more than 10% of the original contract amount, (\$238,000) as originally awarded by the Mayor and Council.

Under the City's purchasing regulations Section 2-104, entitled Contract Modification, Change Orders & Price Adjustments, it is specified in part: "Price adjustments which exceed \$20,000 and which is in excess of 10% of the original contract price, shall be subject to prior approval by the Mayor and Council after receiving a report from the City Manager as to the effect of the modification on the total budget."

In order to accomplish several outstanding water break street repairs and to complete the authorized expenditure of routine maintenance funds, it is necessary to obtain Mayor and Council concurrence to increase the contract amount to \$281,904. The increase will included the following expenditures from the identified accounts:

Original Contract Amount		\$238,000
1. Account 332920	Water Main Street Repair	17,000
2. Account 334902	Recreation and Parks Repairs	4,858
3. Project 5F33	Water Rehab. Street Repair	<u>\$ 22,046</u>
	Total Revised Contract Amount	\$281,904

Adequate funds have previously been authorized by the Mayor and Council in the appropriate account to cover the above costs. Staff recommends the contract be increased as shown.

On motion of Councilman Duncan, duly seconded and unanimously passed, the Mayor and Council approved an increase in Fiscal Year 1987 Annual Maintenance Contract, Bid #15-87.

Re: Award of Bid #72-87,  
Engineering and  
Construction Service  
Systems for the New  
Office/Gift Shop Complex  
at the Rockville Senior  
Center.

Invitation to bid were mailed to 38 contractors and the bid was advertised in FW Dodge, Blue, and Bid Net reports. A single bid was received and opened on May 26 1987 for Engineering and Construction Services - Improvements to HVAC Systems - New Office/Gift Shop Complex at the Rockville Senior Center. The bid was as follows:

Company	Lump Sum Bid
HVAC Precision Services, Inc. Rockville, Maryland	\$21,000

This project involves the engineering/design and construction of improvements to the heating, ventilating and air conditioning systems for the new off/gift shop complex at the Rockville Senior Center. Air conditioning for this section of the building is now provided only by five window units. This contract will provide for the installation of a roof-top, central A.C unit, plus tie-in to the central heating system for these spaces. This work is complementary to the work involved in Bid #65-87, Construction of Offices/Gift Shop.

A total of \$65,000 is budgeted in the Senior Center division budget for the entire office/gift shop project, including the office construction and the HVAC improvements. The office/gift shop construction contract is \$39,500. With the award of this bid, the funds committed to the overall project will total \$60,500.

The remaining project funds will be spent on improvements to the phone system and other miscellaneous items.

HVAC Precision Services, Inc. has performed numerous similar projects for the City. They are currently under contract for the routine and emergency maintenance of all of the city's coilers. HVAC Precision Services, Inc. has consistently performed on an above average basis in its contracts with the city.

Staff recommends an award to HVAC Precision, Inc., Rockville, Maryland, in the amount of \$21,000 as the sole bidder for Engineering and Construction Services - Improvements to HVAC Systems, Rockville Senior Center.

On motion of Councilman Duncan, duly seconded and unanimously passed, Award of Bid #72-87, Engineering and Construction Services Improvement to HVAC Systems, New Office/Gift Shop Complex at the Rockville Senior Center, to HVAC Precision Services, Inc., in the amount of \$21,000.

Re: Award of Bid #73-87, HVAC  
Improvement to Theatre and  
Social Hall

Invitation to bid were mailed to 37 contractors and the bid was advertised in FW Dodge, Blue Reports, Construction Market Data and Bid Net. Four bids were received as follows:

Kirlin Enterprises, Inc. T/A Combustioneer	\$75,850.00
C.V. Carlson Company, Inc.	\$78,400.00
M&M Welding & Fabricators, Inc.	\$79,160.00
HVAC Precision Services, Inc.	\$88,700.00

This project involves replacement of cooling tower, chiller, boiler, circulating pumping systems and air compressor at the Rockville Civic Center Social Hall/Theatre.

A total of \$89,000.00 has been funded for the improvement to the HVAC system at the Theatre and Social Hall.

City staff checked three Combustioneer references involving similar construction contracts and their banking institution and found the firm to be a satisfactory organization.

Staff recommends award to Combustioneer in the amount of \$75,850.00 as low bidder for HVAC Improvements to Theatre and Social Hall, as per the specification in Bid #73-87.

On motion of Councilman Duncan, duly seconded and unanimously passed, Award of Bid #73-87, HVAC Improvements to Theatre and Social Hall, was awarded to Kirlin Enterprises, Inc., T/A Combustioneer, in the amount of \$75,850.00.

Re: Resolution To Establish a  
Maximum Rate of Rent  
Increase Required Under  
Chapter 26A of the "Laws of  
Rockville" entitled "Rental  
Housing Data Collection and  
Voluntary Rent Stabilization  
Guidelines" as Required  
Under Section 1-102

Resolution No. 15-87

On motion of Councilman Duncan, duly seconded and unanimously passed, Resolution No. 15-87, the full text of which can be found in Resolution Book No. 8 of the Mayor and Council, to establish maximum rate of rent increase, was passed by the Mayor and Council.

Re: Approval of On-Site SWM  
Waiver #20-87 for an Office  
Building, 85 S. Washington  
Street, U-381-87

This 1.33 acre parcel of land is located on the northwest corner of S. Washington Street and Jefferson Street in the Cabin John Creek Drainage area. The site is currently improved by two existing buildings and a parking lot. The applicant proposes to construct an office building with underground parking in place of the existing parking lot. The current development of this site

predates City SWM requirements. Since the proposed re-development involves more than half of the site, SWM must be provided for the entire site.

The resultant impervious area of the site will be unchanged from existing and it totals 1.27 acres. Since buildings will cover almost the entire site, on-site methods of SWM are not possible.

The runoff from the site is conveyed by enclosed storm drains to the site of the proposed Rockville Heights SWM facility currently under design. The Rockville Heights SWM facility, proposed to be constructed in calendar 1987, will be able to provide storage for the runoff from this site.

Staff recommends that a waiver be granted and that a contribution of \$25,400 (1.27 impervious acres at \$20,000 per acre) be accepted for the City offsite SWM program.

On motion of Councilman Duncan, duly seconded and unanimously passed, On-Site SWM Waiver #20-87 for an Office Building, 85 S. Washington Street, U-381-87, was approved by the Mayor and Council.

Re: Approval of Agreement of  
Lease, Middle Lane Parking  
Lot to Eisinger Kilbane

Councilman Hartogensis stated his appreciation for Mr. Gewirtz's comments. He noted, however, that this agreement is justified in that the City should not be in free competition with business persons in the City. Councilman Coyle stated that he appreciated staff's getting a better deal for the City on its return from the parking fees. He asked that publicity about the new parking arrangement be included in Rockville Reports.

On motion of Councilman Abrams, duly seconded, the lease agreement, Middle Lane Parking Lot to Eisinger-Kilbane, was approved by the Mayor and Council unanimously.

Re: Review and Discussion of New  
Horizons Task Force Report

Councilman Abrams stated that he feels that the Mayor and Council have discussed with the Task Force the issues at hand and questions the need to provide additional notice to the members when the Mayor and Council discuss the matter. Councilman Coyle expressed his concern that the Task Force members did not received the memorandum from the City Attorney's Office. In addition, the memorandum states that the Task Force should continue to function.

On motion of Councilman Hartogensis, duly seconded and unanimously passed, it was decided that this item be discussed in Executive Session. Once this has taken place, the item can be brought back for a public discussion by the Mayor and Council.

Re: Discussion of Proposals for  
Welcome to Rockville Signs  
(Sister City Recognition)

Councilman Hartogensis stated that we are fortunate with the present make-up of the Sister City Corporation. Council Coyle said he hopes the new signs will be in place in October when the delegation from Pinneberg comes to Rockville. Acting Assistant City Manager Donald Vandrey stated that the goal is to have the new signs in place in September. Mayor Van Grack expressed his preference for something on the signs about other aspects of the City, such as the All American City awards that have been received.

On motion of Councilman Duncan, duly seconded, version A of the revised Welcome to Rockville Signs was approved by the Mayor and Council, with Mayor Van Grack voting Nay.

Re: Adoption of Ordinance to  
Appropriate Funds and Levy  
Taxes for Fiscal Year 1988

Ordinance No. 10-87

Councilman Hartogensis stated that he is pleased that the Mayor and Council is reducing the tax rate from \$.87 to \$.85. Councilman Coyle thanked staff for its work on the budget. He stated he feels that process moved along better this year than in past years and that the discussions focused on important issues.

Mayor Van Grack agreed with Councilman Coyle, noting that he is pleased that the City's residents will be receiving a tax decrease. He pointed out some of the new items in the budget, including the business liaison position and the additional traffic engineer, stating that these programs are important. Councilman Coyle noted that the Mayor and Council has set aside in a designated reserve of \$200,000 for affordable housing projects. This reserve was set aside at request from Councilman Abrams and funds will be used when opportunities present themselves. Councilman Duncan noted that the reserve gives incentives to the Mayor and Council to identify some direction for the funds. Councilman Abrams expressed his appreciation for the support of the Mayor and Council on this issue. He stated he is hopeful that the funds will keep the small town flavor of Rockville and create opportunities for innovation.

Councilman Duncan noted the additional funding for an extra position in the City Clerk's Office to help be more responsive to citizens. He thanked the City Manager and staff for the budget, stating that the process went well, that all questions were answered and staff conducted itself in a professional manner. Finally, he noted that due to his employment with AT&T he would abstain from any discussions of computer modems during the coming year, as funds have been included in the budget to purchase such equipment.

On motion of Councilman Duncan, duly seconded, Ordinance No. 10-87, the full text of which can be found in Ordinance Book No. 13 of the Mayor and Council, to appropriate funds and levy taxes for fiscal year 1988, was adopted by the Mayor and Council.

Re: Adoption of Ordinance to  
Amend Section 7-2.17 of  
Chapter 7 of the "Laws of  
Rockville", entitled "Sewer  
Usage Charge"

Ordinance No. 12-87

On motion of Councilman Hartogensis, duly seconded and unanimously passed, Ordinance No. 12-87, the full text of which can be found in Ordinance Book No. 13 of the Mayor and Council, to amend Section 7-2.17 of Chapter 7 of the "Laws of Rockville", entitled "Sewer Usage Charge", was adopted by the Mayor and Council.

Re: Adoption of Ordinance to  
Amend Section 7-2.16 of  
Chapter 7 of the "Laws of  
Rockville", entitled "Water  
Consumption Charge"

Ordinance No. 13-87

On motion of Councilman Duncan, duly seconded and unanimously passed, Ordinance No. 13-87, the full text of which can be found in Ordinance Book No. 13 of the Mayor and Council, to amend Section 7-2.16 of Chapter 7 of the "Laws of Rockville", entitled "Water Consumption Charge", was adopted by the Mayor and Council.

Re: Adoption of Resolution to  
establish Service Charge  
Rate - Municipal Refuse  
Collection Service

Resolution No. 16-87

On motion of Councilman Abrams, duly seconded and unanimously passed, Resolution No. 16-87, the full text of which can be found in Resolution Book No. 8



of the Mayor and Council, to establish Service Charge Rate - Municipal Refuse Collection Service, was adopted by the Mayor and Council.

Re: Approval of Minutes

On motion of Councilman Duncan, duly seconded, the minutes of Meeting No. 43-86, November 24, 1986, were adopted unanimously by the Mayor and Council as written.

Re: New Business

1. Councilman Coyle asked the Mayor and Council to consider a request from Sister Cities Corporation to pay for the registration at the upcoming annual conference for two adults and two children. Councilman Coyle abstained from voting on the request, as he is a member of the corporation.

On motion of Councilman Duncan, duly seconded, the motion for the City to pay for the registrations were approved, with Councilman Coyle abstaining.

2. Councilman Coyle asked City Manager Robinson to do what he can to get the remaining families out of the Red Barn as soon as possible.

3. Noting Item 6 from the City Manager's "Various Items" memorandum of June 5, 1987, Councilman Hartogensis stated he hopes an agreement can be in place on the City's maximum expansion limits before the Fortune Parc development issue comes to a head. He asked if it would be possible for the City to ask Montgomery County to delay making a final decision on Fortune Parc until the MEL agreement is in place. Councilman Abrams suggested that the Mayor and Council receive advice from the City Attorney before making such a request.

Re: Executive Session

There being no further business to come before the Mayor and Council in general session, the meeting was closed for executive session to discuss legal and personnel matter.

## Re: Adjournment

There being no further business to come before the Mayor and Council in executive session, the meeting was adjourned at 10:05 p.m. to convene again in general session on Monday, June 22, 1987, at 8:00 p.m.